

KENTUCKY BOARD OF NURSING
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***SUMMARY REPORT OF KENTUCKY BOARD OF NURSING ADVISORY OPINIONS ON
NURSING PRACTICE ISSUES***

July 1, 2015 – June 30, 2016

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1. Licensure Requirements for Nurses Providing Care Through Telehealth Routes – 10/2015
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3. Scope of Registered Nursing Practice in the Performance of EMTALA Examinations – **Rescind** 2009 Opinion – 10/2015
4. Revision “Defining Same or Similar Specialty for the APRN Choosing a Collaborating Physician” – 10/2015
5. APRN Scope of Practice in the Utilization of Fluoroscopy for the Performance of Fluoroscopic-Guided Procedures – 10/2015
6. Scope of Registered Nursing Practice in the Performance of EMTALA Examinations – 12/2015

Advisory Opinion Statements – New

- None as of 12/15/2015

Advisory Opinion Statements – Re-published

- AOS #01, Role of the Registered Nurse/Licensed Practical Nurse in Spinal Screening for Detection of Common Abnormal Curvatures of the Spine – republished 10/2015
- AOS #02, Role of the Advanced Registered Nurse Practitioner, Registered Nurse, and Licensed Practical Nurse in Gynecological Cancer Detection – republished 10/2015
- AOS #06, The Performance of Arterial Puncture by Registered Nurses – republished 10/2015
- AOS #07, Roles of Nurses in Superficial Wound Closure – republished 10/2015

Advisory Opinion Statements – Revised

- AOS #32 Administration of Medications for Procedural Sedation and Analgesia by Nurses – 12/2015

Advisory Opinion Statements – Editorial Revisions

- AOS #09 – The Performance of Wound Debridement by Nurses – editorial revision 10/2015
- AOS #14 – Roles of Nurses in the Implementation of Patient Care Orders – editorial revision 10/2015

Advisory Opinion Statements – Retired

- None as of 10/15/2015

Task Forces/Work Groups Established

- A work group to consider revision to 201 KAR 20:490, LPN IV Therapy Scope of Practice 10/2015
- An interagency task force to identify the regulatory issues related to the prescriptive authority of the APRN to order, store, and prescribe extended-release testosterone (CIII) pellets and other testosterone-containing compounds. 10/2015

Statutes/Regulations – Revised

- 201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements. – 12/2015

Statutes/Regulations – New

The Kentucky Board of Nursing is authorized by Kentucky Revised Statutes (KRS) Chapter 314 to regulate nurses, nursing education and practice, promulgate regulations and to issue advisory opinions on nursing practice, in order to assure that safe and effective nursing care is provided by nurses to the citizens of the Commonwealth.

The Kentucky Board of Nursing issues advisory opinions as to what constitutes safe nursing practice. As such, an opinion is not a regulation of the Board and does not have the force and effect of law. It is issued as a guideline to licensees who wish to engage in safe nursing practice, and to facilitate the delivery of safe, effective nursing care to the public.

Mission of the Kentucky Board of Nursing

The primary mission and purpose of the Board is to enforce public policy related to the safe and effective practice of nursing in the interest of public welfare. As a regulatory agency of state government, the Board of Nursing accomplishes this mission as authorized by Kentucky Revised Statutes (KRS) Chapter 314—The *KENTUCKY NURSING LAWS* and attendant administrative regulations. In accomplishing one aspect of the mission, the Board of Nursing issues advisory opinions on what constitutes the legal scope of nursing practice.

An opinion is not a regulation of the Board; it does not have the force and effect of law. Rather, an opinion is issued as a guidepost to licensees who wish to engage in safe nursing practice.

To date, the Board has published thirty-nine (39) (37 are currently active) advisory opinion statements, as listed on the “Kentucky Board of Nursing Publications” form and on the Board's website at <http://kbn.ky.gov>.

Advisory opinion statements are developed and published when:

1. Multiple inquiries are received regarding a specific nursing procedure or act;
2. The Practice Committee or APRN Council determines that a specific nursing procedure or

act has general applicability to nursing practice and warrants the development of an opinion statement; or

3. The Board directs that an opinion statement be developed.

When studying issues, the Board reviews and considers applicable standards of practice statements published by professional nursing organizations; the educational preparation of both registered and licensed practical nurses as provided in the prelicensure nursing education programs in the Commonwealth; and, when applicable, the organized post-basic educational programs for advanced registered nurse practitioners. The Board also gathers information regarding practice issues from nurses in relevant practice settings (including staff nurses, supervisors, nurse faculty members, etc.) and/or representatives from state nursing associations in the Commonwealth, among others. Further, the Board reviews applicable opinions issued by the Office of the Attorney General.

Accountability and Responsibility of Nurses

In accordance with KRS 314.021(2), nurses are responsible and accountable for making decisions that are based upon the individuals' educational preparation and current clinical competence in nursing, and requires licensees to practice nursing with reasonable skill and safety.

Acts that are within the permissible scope of practice for a given licensure level may be performed only by those licensees who personally possess the education and experience to perform those acts safely and competently. A nurse/licensee who doubts his/her personal competency to perform a requested act has an affirmative obligation to refuse to perform the act, and to inform his/her supervisor and the physician prescribing the act, if applicable, of his/her decision not to perform the act.

If a licensee accepts an assignment that the licensee believes is unsafe or for which the licensee is not educationally prepared, then the licensee also assumes the potential liability, which may occur as a result of the assignment. Others may equally or concurrently be responsible, accountable, and liable for a licensee's actions.

Practice should be consistent with the *Kentucky Nursing Laws*, established standards of practice, and be evidenced based.

Practice Opinions

In addition to the 37 active advisory opinions published as of October 15, 2015, the Board has issued from July 1, 2015 to October 15, 2015, individual practice opinions in response to inquiries on specific nursing practice situations, summarized as follows:

1. Licensure Requirements for Nurses Providing Care Through Telehealth Routes

October 2015 – it was the advisory opinion of the Board that:

The Kentucky Board of Nursing interprets KRS Chapter 314 as defining that nursing care occurs in the location of the patient and therefore any nurse providing care via telehealth routes is required to be licensed or hold the privilege to practice in Kentucky, effective October 30, 2015.

**2. Scope of the Registered Nursing Practice in the Determination of False Labor –
Reaffirmation of 2006 KBN Opinion**

October 2015 – it was the advisory opinion of the Board that:

The 2006 Advisory Opinion regarding false labor be **reaffirmed** as follows:

Recognizing the term “false labor” as a term common to both nursing and medical practice, it was the advisory opinion of the Board that the certification of false labor is within the scope of registered nursing practice. The registered nurse, as a qualified medical person, must be educationally prepared and clinically competent in the determination of false labor, and would perform this act according to established protocol officially approved by the facility’s medical and nursing staff.

**3. Scope of the Registered Nursing Practice in the Performance of EMTALA
Examinations – Rescind 2009 Opinion**

October 2015 – it was the advisory opinion of the Board that the following 2009 practice opinion be **rescinded** and reconsidered by the Practice Committee:

It was the advisory opinion of the Board that the performance of the medical screening exam required by EMTALA is not within the scope of registered nursing practice.

**4. Defining Same or Similar Specialty for the APRN Choosing a Collaborating
Physician**

October 2015 -- Revision of the resource document entitled “Defining Same or Similar Specialty for the APRN Choosing a Collaborating Physician

**5. APRN Scope of Practice in the Utilization of Fluoroscopy for the
Performance of Fluoroscopic-Guided Procedures**

October 2015 – it was the advisory opinion of the Board that:

The utilization of fluoroscopy and the operation of the equipment in the performance of fluoroscopic-guided procedures is within the scope of advanced practice registered nursing practice for the APRN who is currently educationally prepared and clinically competent in performing fluoroscopic- guided procedures.

Additionally, 1) the fluoroscopic-guided procedure and the utilization of fluoroscopy is performed according to an established, approved policy and procedure in the health care facility; and
2) the APRN has been granted clinical privileges to perform the fluoroscopic-guided procedure and utilize fluoroscopy through the health care facility’s credentialing process.

Further, it is within the scope of practice of the APRN to supervise the medical imaging technologist when assisting the APRN in the performance of the fluoroscopic-guided procedure.

6. Scope of Registered Nursing Practice in EMTALA Screening

December 2015 – it was the advisory opinion of the Board that:

It is within the scope of registered nursing practice for an RN to perform a medical screening exam (MSE) as required by the emergency medical treatment and labor act. The RN completing the MSE is establishing the presence or absence of an emergency medical condition, and is not engaged in making an independent medical diagnosis or developing a medical treatment plan.

An RN performing a medical screening exam should do so under the following conditions:

1. When all of the components of the MSE performed by the RN are within the registered nursing scope of practice;
2. The RN follows documented, facility approved policy, procedures and/or protocols that allow and guide MSE by registered nurses;
3. An authorized provider is available for consultation; and
4. The RN is educationally prepared and clinically competent to perform the MSE.

It is not within the scope of licensed practical nursing practice for an LPN to perform MSE; however, the LPN may contribute to the assessment as defined by the LPN scope of practice.

All advisory opinion statements may be downloaded from the KBN website

<http://kbn.ky.gov>.

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Determining Scope of Practice

KRS 314.021(2) holds all nurses individually responsible and accountable for the individual's acts based upon the nurse's education and experience. Each nurse must exercise professional and prudent judgment in determining whether the performance of a given act is within the scope of practice for which the nurse is both licensed and clinically competent to perform. In addition to this advisory opinion statement, the Kentucky Board of Nursing has published "Scope of Practice Determination Guidelines" which contains a decision tree chart providing guidance to nurses in determining whether a selected act is within an individual nurse's scope of practice now or in the future. A copy of the RN and LPN guidelines may be downloaded from the Board's website <http://kbn.ky.gov/NR/rdonlyres/74A5FF75-543D-4E12-8839-720B7623DA87/0/ScopeDeterminGuidelines.pdf> and a copy of the APRN guidelines may be downloaded from the Board's website <http://kbn.ky.gov/practice/Documents/APRN%20Scope%20of%20Practice%20%20Decision%20Making%20Model.pdf>

Applicable Kentucky Nursing Law:

KRS 314.011(6) defines "registered nursing practice" as:

...The performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

- a) The care, counsel, and health teaching of the ill, injured or infirm.

- b) The maintenance of health or prevention of illness of others.
- c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include, but are not limited to:
 - 1. Preparing and giving medication in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;
 - 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
 - 3. Intervening when emergency care is required as a result of drug therapy;
 - 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
 - 5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
 - 6. Instructing an individual regarding medications.
- d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care.
- e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses.

KRS 314.011(10) defines "licensed practical nursing practice" as:

...The performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

- a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist.
- b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.
- c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses.
- d) Teaching, supervising, and delegating except as limited by the board.
- e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Licensed Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses.

KRS 314.011(8) defines "advanced practice registered nursing practice" as:

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"Advanced practice registered nursing" means the KRS 314.011(8) defines "advanced practice registered nursing practice" as: "Advanced practice registered nursing" means the performance of additional acts by registered nurses who have gained advanced clinical knowledge and skills through an accredited education program that prepares the registered nurse for one (1) of the four (4) APRN roles; who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced practice registered nursing as a certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or clinical nurse specialist; and who certified in at least one (1) population focus. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced practice registered nurses who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905 and to issue prescriptions for but not to dispense Schedules II through V controlled substances as classified in KRS 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, and 218A.130, under the conditions set forth in KRS 314.042 and regulations promulgated by the Kentucky Board of Nursing on or before August 15, 2006. ... (c) The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;...